

Application No. 10/590,611
Reply to Office Action of July 8, 2009

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Docket No.: 66126(70301)

REMARKS

In the Office Action dated July 8, 2009, claims 18-26 and 28-35 are pending, and claims 18-26 and 28-35 are rejected. Reconsideration is requested at least for the reasons discussed hereinbelow.

The above amendment to claim 18 merely corrects a clerical error (see, e.g., Figs. 1A and 1B). The amendment to claim 31 is submitted to more particularly point out and distinctly claim the subject matter regarded as invention. No new matter is added (see original claim 13).

Claims 18, 22-24, 26 and 31-33 are rejected under 35 U.S.C. §102(e) over Deal (US 7,291,101). Deal discloses an apparatus for exercising that comprises handles 1 which are either directly attached to both ends of an elongated shaft 4 (which is bent to form a semi-circle) or optionally attached by compression springs 5 (col. 2, lines 18-23; Fig. 4). It is noted that in Fig. 4, reference number 1 indicating the handle is missing, however, in comparison with Fig. 2, it becomes apparent that the handles 1 are attached to both ends of the elongated shaft 4 by compression springs 5. Thus, the **handles 1** of the apparatus for exercising according to Deal are **not attached by borings**, as set forth in present claim 18, but said handles are **attached either directly or optionally via compression springs 5** to both ends of the longitudinal shaft 4.

Deal does illustrate borings transverse to the handles which are attached to the elongated shaft 4. However, even if those borings were in the shaft, the borings are used to bend and hold the shaft in the semi-circle configuration, the borings do not attach the handles.

Thus, it is not seen how there would be even a suggestion in Deal for a sports device having an elongated body wherein the body ends have borings through the body transverse to the longitudinal direction and handles are attached through the borings.

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Regarding claim 31, Deal *fails* to disclose or suggest that "the handles are formed of a **stretchable element made of an elastically stretchable material**, which is attached respectively to the elongated body to enable pulling movement for elastically flexing the elongated body from the longitudinal direction," as set forth in claim 31. Instead, the exercising apparatus of Deal comprises **handles which resemble bike grips** (col. 2, lines 19-21). However, such bike grip-like handles do not disclose or suggest a **stretchable element made of an elastically stretchable material**, as set forth in present claim 31. The bungee cord 6 is a stretchable element; however, it is not a handle for the elongated shaft. Instead, the **bungee cord 6** merely provides a means to form the elongated shaft into a semi-circle.

Further, Applicant submits that the person skilled in the art would not take into account the apparatus for exercising according to Deal when searching for a sports device for a whole body training by using hand and feet at the same time.

Deal discloses an apparatus for exercising which comprises a **ball or a roller 8** wherein **merely** the hands are used to roll said ball or roller 8 over a part of the body in order to massage muscles and to do physical exercise. In contrast to that, the sports device according to the present invention **enables a versatile training by using hand and feet at the same time** due to the special handles, as set forth in claims 18 and 31, respectively, wherein the **elongated body 1 is bent out of its original position or resting position** by the force imparted by means of the handles. Thereby, the presently claimed sports device truly enables a **whole body training** in a manner not feasible by Deal. Furthermore, the sports device according to the present invention provides for new training possibilities in the field of coordination and balance and thus is well suited for rehabilitation purposes.

The dependent claims are patentable for at least the same reasons as discussed

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above.

Thus, it is not seen how the presently claimed invention is anticipated by Deal. Nor is it seen how the present invention would have been obvious to one of ordinary skill in the art in view of Deal.

Claims 19-21 are rejected under 35 U.S.C. §103(a) over Deal in view of Casagrande et al. (US 4,861,300; "Casagrande"). Deal is discussed in detail above. It is not seen how Casagrande makes up for the deficiencies of Deal. Casagrande also *fails* to teach or suggest a sports device having an elongated body wherein the body ends have borings through the body transverse to the longitudinal direction and handles are attached through the borings. Nor does Casagrande suggest "an elongated body extending in a longitudinal direction."

Indeed, it is not seen how one of ordinary skill in the art would combine Deal and Casagrande or, if a combination were attempted, what the result would be. Would it be a massage apparatus with floatation pontoons added to shaft 4? How would the pool flotation device of Casagrande use borings to fix a shaft in a semi-circle?

Thus, it is not seen how the present invention would have been obvious to one of ordinary skill in the art in view of any combination of Deal and Casagrande.

Claim 25 is under 35 U.S.C. §103(a) over Deal in view of Ladin (US 5,697,792). Deal is discussed in detail above. It is not seen how Ladin makes up for the deficiencies of Deal. Ladin also *fails* to teach or suggest a sports device having an elongated body wherein the body ends have borings through the body transverse to the longitudinal direction and handles are attached through the borings. Nor does Ladin suggest "an elongated body extending in a longitudinal direction."

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Indeed, it is not seen how one of ordinary skill in the art would combine Deal and Casagrande or, if a combination were attempted, what the result would be. Ladin describes a device worn on a swimmers head to provide a visual display that depends on changes in swimmer's form or movement. Would a combination with deal provide a visual display device attached to the massage apparatus?

It is not seen how the present invention would have been obvious to one of ordinary skill in the art in view of any combination of Deal and Ladin.

Claim 28 is rejected under 35 U.S.C. §103(a) over Deal in view of Halsworth (US 6,949,035). Deal is discussed in detail above. It is not seen how Halsworth makes up for the deficiencies of Deal. Halsworth also *fails* to teach or suggest a sports device having an elongated body wherein the body ends have borings through the body transverse to the longitudinal direction and handles are attached through the borings. Nor is it seen how one of ordinary skill in the art would combine Deal and Casagrande or, if a combination were attempted, what the result would be. Halsworth describes a power swing training bat. Would a combination provide an anchor for the massage device of Deal?

Thus, it is not seen how the present invention would have been obvious to one of ordinary skill in the art in view of any combination of Deal and Halsworth.

Claims 29 and 30 are rejected under 35 U.S.C. §103(a) over Deal in view of MacMillan (US 6,949,035). Deal is discussed in detail above. It is not seen how MacMillan makes up for the deficiencies of Deal. MacMillan also *fails* to teach or suggest a sports device having an elongated body wherein the body ends have borings through the body transverse to the longitudinal direction and handles are attached through the borings.

MacMillan describes an exercise system made with elastic cords that can be attached through fastening rings. It is not seen how the disclosure of MacMillan would

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have been combined with Deal by one of ordinary skill in the art. Would the combination provide ring fasteners along the elongate body of Deal?

Thus, it is not seen how the present invention would have been obvious to one of ordinary skill in the art in view of any combination of Deal and MacMillan.

Claims 34 and 35 are rejected under 35 U.S.C. §103(a) over Deal in view of Malynowsky (US 5,399,139). Deal is discussed in detail above. Malynowsky fails to make up for the deficiencies of Deal. Malynowsky describes a foot rest. How would the massage device of Deal have been combined with the foot rest by one of ordinary skill in the art?

Thus, it is not seen how the present invention would have been obvious to one of ordinary skill in the art in view of any combination of Deal and Malynowsky.

In view of the discussion above, Applicant respectfully submits that the pending application is in condition for allowance. An early reconsideration and notice of allowance are earnestly solicited.

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If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

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Respectfully submitted,

By 

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